

Request for Limited Extension of Deadline for KRDK-TV to Submit Invoices for Reimbursement from the TV Broadcaster Reimbursement Fund

Parker Broadcasting of Dakota License, LLC (“Parker”), licensee of full power digital television broadcast station KRDK-TV, Valley City, North Dakota (Facility ID 49134) (the “Station” or “KRDK”), hereby seeks a limited extension, to and including March 22, 2022, of its current October 8, 2021 deadline to submit all remaining invoices for reimbursement from the TV Broadcaster Relocation Fund (“Fund”).

By a recent Public Notice, *TV Broadcaster Relocation Fund Filing Deadline Approaches in Sixty Days*, DA 21-970 (rel. Aug. 9, 2021) (“Notice”), the Incentive Auction Task Force and Media Bureau (“Bureau”) reminded certain television broadcasters, those repacked to different channels as a collateral consequence of the Commission’s Incentive Auction, of three upcoming deadlines to submit invoices for reimbursement from the Fund: (1) October 8, 2021 for full power and Class A stations assigned to Phases 1-5 of the repack; (2) March 22, 2022 for full power and Class A stations assigned to Phases 6-10 of the repack; and (3) September 5, 2022 for MVPDs, FM stations, and LPTV/TV translator stations. The Notice (at n. 4) also made clear that, in appropriate circumstances, the Commission would entertain requests for a limited extension of a station’s deadline, for example from the first to the second deadline.¹ As shown below, KRDK’s relocation from RF Channel 38 to RF Channel 24 proved unusually difficult. Indeed, KRDK’s circumstances align much more closely with a station assigned to Phases 6-10 than to one assigned to Phases 1-5. KRDK therefore respectfully requests that its deadline for submitting reimbursement invoices be extended to March 22, 2022.

¹ Pursuant to footnote 4 of the Notice, Parker also respectfully requests a waiver of the Legal STA filing fee in LMS.

From the outset, implementation of the repack posed a very difficult challenge for the Station, for multiple reasons. The Station was originally assigned to Phase 1 of the television band repack, with a construction completion date of November 30, 2018. At Parker's separate requests and for good cause shown, the Bureau first reassigned the Station to Phase 3 of the repack (with a June 21, 2019 completion date),² then granted the Station's separate, sequential requests to extend and toll that CP expiration date to December 18, 2019 (File No. 0000074755), June 15, 2020 (File No. 0000093167), and December 14, 2020 (File No. 0000116138).

These previous Parker filings have chronicled multiple facts demonstrating that the Station repack was a project of unusually broad scope and complexity. Central among those facts – the CP authorized the installation of an antenna near the top of a tower that lays claim to being one of the tallest, if not the tallest, broadcast towers in the United States. It measures 2,060 feet above ground. As is commonly recognized, tall towers (i.e., those more than 500 feet above ground (much less 2,000 feet)) make for more difficult, complicated, and risky installations.³ That has been the case for KRDK.⁴

This project's complexity has been apparent from various factors previously reported to the Commission, including the sharply weather-truncated construction season in the Fargo, North

² Request for Modification and Waiver of Phase Assignment, filed Oct. 22, 2018, LMS File No. 0000063031 (“*Phase Assignment Waiver*”).

³ In its tower equipment and rigging costs section, FCC Form 399 recognizes towers above 500’ AGL as “tall.” See also American Tower’s *Broadcast Buzz*, Jan. 2019 Edition, at ¶ 8 (“on-tower work requires special skill sets, particularly construction on tall broadcast towers.”), available at <https://www.americantower.com/us/news-and-events/broadcast-buzz/January-2019.html>. See also *Confessions of a Tall Tower Worker*, Radio World, Aug. 15, 2017, available at <https://www.radioworld.com/miscellaneous/confessions-of-a-talltower-worker> (tall tower job skills are very much in demand due to the broadcast spectrum repack).

⁴ The Station's online LMS filings confirm Parker's consistent diligence throughout this complicated process. That is, that record shows that to date Parker has filed 52 Form 399s relating to the KRDK repack, three in 2017, seven in 2018, 19 in 2019, 13 in 2020, and 10 in 2021 at the time of this filing.

Dakota area.⁵ It is also the case that, due to the Station’s small staff (which includes no in-house engineers), satisfying the many demands of this project has proven particularly challenging for Parker, one of the country’s very few minority-owned broadcasters, and one that provides an important independent voice in the Fargo-Valley City DMA.

Another rare, exceptional, and complicating circumstance that first arose during the construction phase and persists to this day is the COVID-19 pandemic. This international public health crisis directly and negatively impacted multiple aspects of this project and the television industry more generally. Those impacts include curtailing travel options of principals and crew, further compressing their schedules, already crowded due to the national Incentive Auction-related repack, and adding cascading layers of complication and delay to the ability of workers to safely perform the work required by a project like the Station’s move to Channel 24 on a 2,000+ foot AGL tower. Parker notes that the Commission has acknowledged the “fluid and challenging situation caused by the novel coronavirus (COVID-19)” in universally postponing, *sua sponte*, certain filing deadlines of broadcasters.⁶ COVID-19 continues to disrupt and dislocate various post-construction processes, including the need to coordinate multiple aspects of the reimbursement process with multiple companies and individuals.

Parker notes that Jampro Antennas, Inc. (“Jampro”) ended up taking the lead position assisting with this project, particularly with respect to equipment fabrication and installation, including the critical related task of securing and deploying a tower crew amidst a heavy overall workload occasioned by repack-related work for other television broadcasters. Factors cited above (e.g., industry-wide disruption caused by COVID-19 and the short season of good weather

⁵ See *Phase Assignment Waiver*.

⁶ See, e.g., *Media Bureau Announces Extension of Time for Broadcasters to File Children’s Programming Reports and Quarterly Issues/Programs Lists*, Public Notice, DA 20-353 (rel. Mar. 27, 2020).

in the Fargo area) delayed Jampro’s and Parker’s work to complete construction of the CP until 2020, including the painstaking, dangerous task of removing all of the transmission line that runs up the facing of the Station’s massive tower, and then installing/securing the new transmission line that retraces the same path skyward.⁷ The crew also found that it had to restore tower rigging. In addition, for safety reasons, the crew needed to take into account weather factors like high winds and rain, which caused additional delay. The totality of these complicating factors made completion of this project take considerably more time than Jampro projected before its crew spent 56 days at the Station site in the autumn of 2019 (even then, without being able to complete the project), putting the Station in a real world position that is the functional equivalent of stations assigned to Phases 6-10.

The facts and circumstances presented herein amply justify grant of the requested limited extension. Parker has acted with diligence throughout this process, over multiple years, in a good faith effort to meet repack deadlines in a manner consistent with this project’s complexity and risk. The Station’s showing herein encompasses many of the factors relevant to Commission analogous consideration of extension requests – installation of an antenna near the top of an extremely tall tower, nearly 2,000 feet above ground level, tower crew unavailability, and complicating weather conditions.⁸

⁷ “Painstaking” is perhaps an understatement that does not adequately describe the onerous work required to remove from, and install on, an existing hyper-tall tower like KRDK’s nearly 2,000 feet of transmission line.

⁸ See, e.g., *Incentive Auction Task Force and Media Bureau Remind Repacked Stations of Certain Post-Auction Transition Requirements and Deadlines*, Public Notice, DA 18-884 (rel. Aug. 27, 2018) at ¶ 12 (citing the following as three of five illustrative circumstances relevant to showings justifying construction permit extensions: “weather related delays,” “delays in construction due to the unavailability of...a tower crew,” and “unusual technical challenges.”). All of these circumstances are present here, and constitute essential components of Parker’s showing of rare and exceptional circumstances.

Parker emphasizes one other key reality. Despite the complexities of its massive *permanent* repack project, Parker made sure to transition the Station to *interim* facilities on its new RF Channel 24 before the Phase 3 completion deadline of June 21, 2019. For that reason, FCC grant of prior extension and tolling requests had no cognizable impact on the FCC's overall repack plan, allowing Parker to work toward completion of the KRDK transition and continue to provide service to the public without causing interference to or other negative effects on other stations. These same considerations apply to the instant request. That is, grant of the limited extension to KRDK of the reimbursement invoice filing deadline as requested herein will clearly align Parker with other similarly situated parties (i.e., those stations assigned to Phases 6-10)⁹ and harm no one. The public interest will clearly be served, and suffer not, by grant of this request.¹⁰

For all of the foregoing reasons, Commission grant of a limited extension to March 22, 2022 of the deadline for Parker to submit KRDK repack-related invoices for Fund reimbursement is amply justified. Such relief is respectfully requested.

⁹ The Phase 10 completion date was set at July 3, 2020, which *predated* KRDK's ultimate construction deadline of December 12, 2020 by more than five months.

¹⁰ Parker notes that the FCC may grant a waiver for good cause shown. 47 C.F.R. § 1.3. A waiver is appropriate where the particular facts make strict compliance inconsistent with the public interest. *Northeast Cellular Tel. Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990). In considering a waiver, the FCC may take into account considerations of hardship, equity, or more effective implementation of overall policy on an individual basis. *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969), *cert. denied*, 409 U.S. 1027 (1972); *Northeast Cellular*, 897 F.2d at 1166. Such a waiver is appropriate if circumstances warrant a deviation from the general rule, and such deviation will serve the public interest. *Northeast Cellular*, 897 F.2d at 1166. This request satisfies these various waiver standards.